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5 Attorneys for Plaintiff  
6 NETFLIX, INC.

7 UNITED STATES DISTRICT COURT  
8  
9 NORTHERN DISTRICT OF CALIFORNIA

10 NETFLIX, INC., a Delaware corporation,

11 Plaintiff,

12 v.

13 BLOCKBUSTER, INC., a Delaware  
corporation, DOES 1-50,

14 Defendant.  
15

Case No. C 06 2361 WHA

**PLAINTIFF NETFLIX'S NOTICE OF MOTION  
AND MOTION UNDER CIVIL L.R. 7-11 FOR  
RELIEF FROM MARCH 13, 2007 DEADLINE IN  
CASE MANAGEMENT ORDER**

Date: N/A per Civil L.R. 7-11  
Judge: Hon. William Alsup

**Notice of Motion and Motion**

PLEASE TAKE NOTICE that Plaintiff Netflix, Inc. ("Netflix") hereby moves under Civil L.R. 7-11 for relief from the Court's Case Management Order for the purpose of seeking leave to file discovery motions beyond the 45 day cutoff contained in Paragraph 20 of the Court's Case Management Order.

This Motion is based on this Notice of Motion and Motion; the below Declaration in support thereof; all pleadings and papers filed herein; oral argument of counsel if a hearing is required by the Court; and any other materials that may be submitted at the hearing.

**Declaration in Support of Motion**

1. On June 30, 2006, this Court issued its Case Management Order ("Order") providing that the "deadline for bringing all discovery motions or extension motions based on discovery violations will be **45 CALENDAR DAYS** prior to the fact discovery cutoff (for fact discovery)." Order at 6 (¶ 20). Because fact discovery is scheduled to cut off on April 27, 2007, that deadline is March 13, 2007.
2. On March 8, 2007, defendant Blockbuster, Inc. ("Blockbuster") sent a letter to counsel for Netflix stating, *inter alia*, that "the steps necessary to prevent routine automatic deletion of emails in accordance with Blockbuster's standard policy were not implemented as intended" and that Blockbuster was investigating the effect of that occurrence. That same evening, Blockbuster served its Disclosure of Discovery Information pursuant to Paragraph 14 of the Order upon Netflix.
3. At a previously scheduled hearing before Magistrate Judge Spero the following day, March 9, the parties discussed what should be done to address the situation. During that discussion, counsel for Blockbuster stated that its non-email production would be complete by Monday, March 12. Counsel for Netflix raised the possibility that the March 13 deadline set forth in the Court's Case Management Order could create a barrier to filing a motion seeking relief if such a motion were appropriate.
4. Magistrate Judge Spero stated that he was not able to modify the deadline contained in the Court's Case Management Order, but that he believed a 30 day extension of the

1 deadline for filing discovery motions was appropriate in this case, and suggested that  
2 counsel move the Court to grant such an extension.

3 5. Counsel for Netflix therefore respectfully makes this administrative motion requesting  
4 that the Court extend Netflix's deadline to file discovery motions for 30 days beyond the  
5 March 13, 2007 cutoff date contained in the Court's Case Management Order.

6  
7 I declare under penalty of perjury that the foregoing is true and correct, and that it was executed  
8 on March 9, 2007 in San Francisco, California.

9  
10 /s/  
Eugene M. Paige

11 Dated: March 9, 2007

Respectfully submitted,  
12  
13 KEKER & VAN NEST, LLP

14  
15 By: /s/ Eugene M. Paige  
Eugene M. Paige  
16 Attorneys For Plaintiff NETFLIX, INC.